IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4804 OF 2004

Ms.Chandrika S.Shah ...Applicant

Versus

M/s.DHL Worldwide Express & Anr. ...Respondents

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Mr.M.B.Shirsat for Applicant.

Mr.K.V.Saste. A.P.P. for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 21, 2004.

P.C.

1. Heard Mr.Shirsat for Applicant and Mr.Saste, A.P.P. for Respondent No.2. None appears for Respondent No.1 though served. Affidavit of service has been filed, which indicate that Respondent No.1/complainant has been duly served.

2. The short question that arises for consideration in the present Application is: whether the complaint as filed by the Respondent

No.1 makes out any offence, so far as Applicant before this Court i.e. accused No.5 is concerned?

3. The complaint is in respect of dishonour of cheque issued by the accused Company. In the complaint, all that has been alleged so as to implicate the Applicant as accused No.5 is that he is the Director of the accused Company, who is jointly and severally responsible for the financial and administrative decisions and day-to-day affairs of the accused Company. Admittedly, the Applicant is not the signatory to the cheque. The only allegation made against the Applicant, as can be discerned from Paragraph No.2 of the complaint, to my mind, is not sufficient to indicate the complicity of the Applicant in the offence in question. Something more is required to be alleged and established as mandated by Section 141 of the Negotiable Instruments Act. Recently, I had occasion to examine this aspect in **Criminal Writ Petition No.2241 of 2004 - Madanlal Taparia & Anr. vs. The Bank of Rajasthan Ltd. & Anr. decided on 14th December 2004.**

4. In the circumstances, this Application succeeds and the same is allowed in terms of prayer clause (a) to the extent that criminal action is quashed insofar as Applicant/accused No.5 is concerned.

A.M.KHANWILKAR, J.